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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,478	09/10/2003	Carl E. Yee	BSI-260US3	3432
23122	7590	05/11/2007	EXAMINER	
RATNERPRESTIA			PREBILIC, PAUL B	
P O BOX 980			ART UNIT	PAPER NUMBER
VALLEY FORGE, PA 19482-0980			3738	
			MAIL DATE	DELIVERY MODE
			05/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/659,478

Applicant(s)

YEE, CARL E.

Examiner

Paul B. Prebille

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-44, 46-55 and 57-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 42-44, 46-55 and 57-60 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Election/Restrictions

Claims 48, 50, 51, 54, 55, 58, and 60 contain allowable subject matter. The restriction requirement among species as set forth in the Office action mailed on February 10, 2006, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 48, 50, 51, 54, 55, 58, and 60, directed to a species no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Specification

Claims 42-44, 46-55, and 57-60 are objected to because of the following informalities:

With regard to claims 42-44, 46-55, and 57-60, there is no clear antecedent basis from the specification for any "member" as in the "first member", "second member" or

"third member" as claimed. It is not clear upon reading the present claims which element(s) correspond to the recited elements. The language of the claims should be changed to more closely match that of the original specification so it is clear which element of the claims corresponds to the element(s) disclosed in the specification.

In claim 46, "the free end" lacks antecedent basis. It may be that the Applicant meant to use the terminology "the opposite end" instead. Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

With regard to claims 42-44, 46-55, and 57-60, there is no clear antecedent basis from the specification for any "member" as in the "first member", "second member" or "third member" as claimed. It is not clear upon reading the present claims which element(s) correspond to the recited elements.

With regard to claims 52 and 53, there is no clear antecedent basis in the specification of drawings for and "uncovered portion in an expanded configuration" or a "third member" as claimed. Applicant should point out which element(s) correspond to all the claimed features of these claims and amend the specification to have language that corresponds thereto.

With regard to claim 57, there is no clear antecedent basis in the specification for a slidable inner core, although it appears to be shown in Figure 3C. It should be made clear where there is support for this feature by an amendment to the specification.

With regard to claim 58, the features of this claim are not adequately described in the specification or shown in the drawings such that it is not clear what recited element corresponds to the elements of the drawings and specification.

The disclosure is objected to because of the following informalities:

On page 8, line 19 of the specification, the language "within sheath 42" is not understood in the context of the presently disclosed invention because the graft (50) overlies the sheath (42); see Figures 3A and 3B. Therefore, it appears that "within" should be changed to ---over--- in order to overcome this objection.

Appropriate correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "uncovered portion in expanded configuration" and the "third member" must be shown or the feature(s) canceled from the claim(s). Similarly, the features of claims 42, 52, 53, 57, and 58 must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The proposed drawing changes filed July 24, 2006 have been approved with respect to replacement page 1/9 that corrected the lead line of reference number 68. However, replacement page 6/9 has not been approved because reference number 50 appears to now point to the blood vessel and not to the graft as it should.

Response to Arguments

Applicant's arguments were persuasive and the rejections of record have been withdrawn. However, new informalities were found that need to be addressed prior to allowance.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

This application is in condition for allowance except for the following formal matters:

See the various objections made *supra*.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Conclusion


Applicant should specifically point out the support for any amendments made to the disclosure, including the claims (MPEP 714.02 and 2163.06). Due to the procedure outlined in MPEP 2163.06 for interpreting claims, it is noted that other art may be applicable under 35 USC 102 of 35 USC 103(a) once the aforementioned issue(s) is/are addressed.

Applicant is respectfully requested to provide a list of all copending applications that set forth similar subject matter to the present claims. A copy of such copending claims is respectfully requested in response to this Office action if the application is not stored in image format (i.e. the IFW system) or published.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Paul B. Prebilic whose telephone number is (571) 272-4758. He can normally be reached on 6:30-5:00 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Paul Prebilic
Primary Examiner
Art Unit 3738



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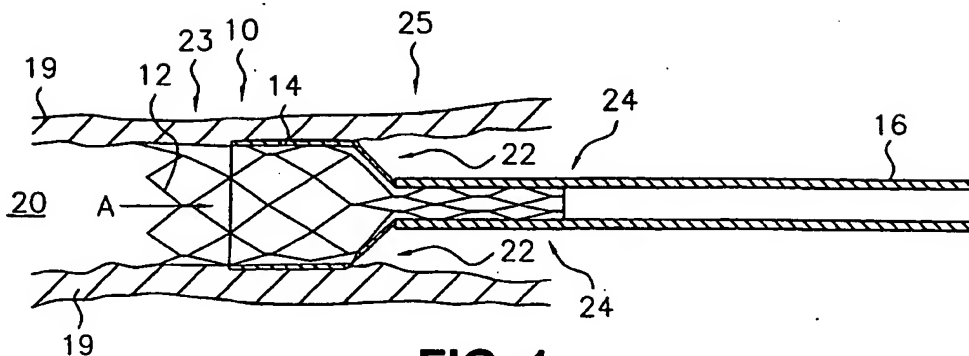


FIG. 1
(Prior Art)

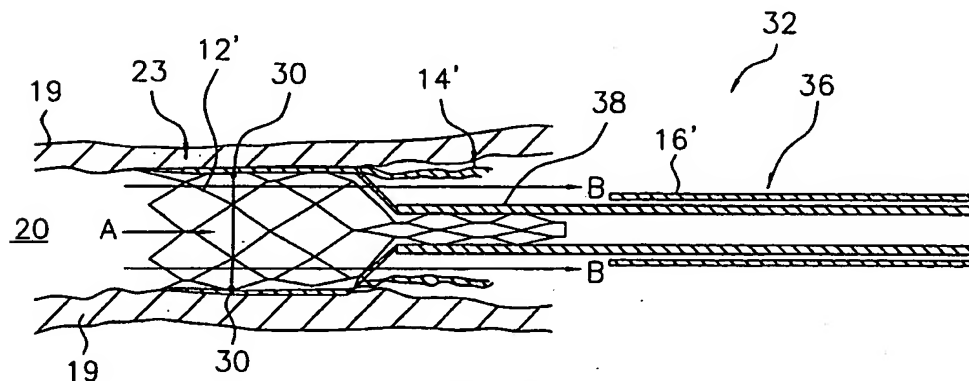


FIG. 2
(Prior Art)

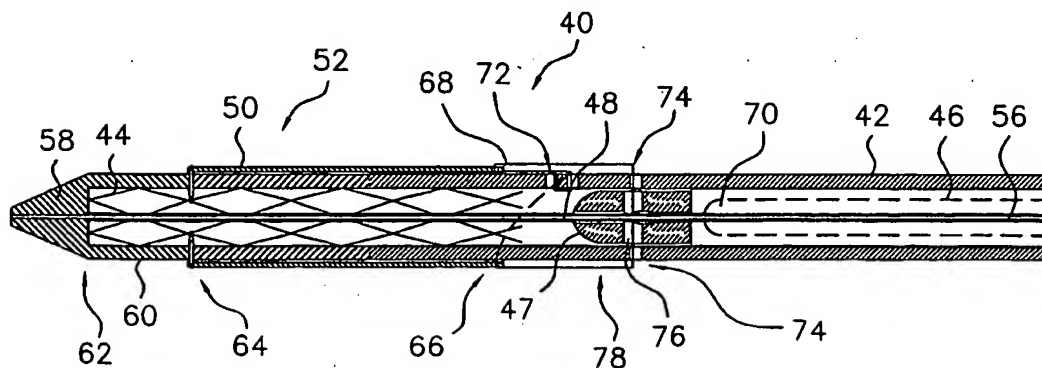


FIG. 3A

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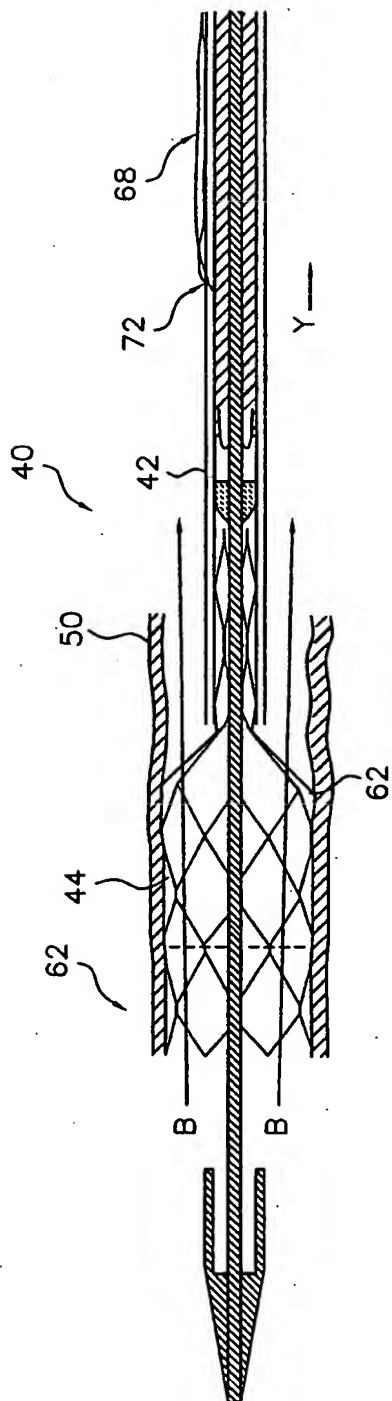


FIG. 7C

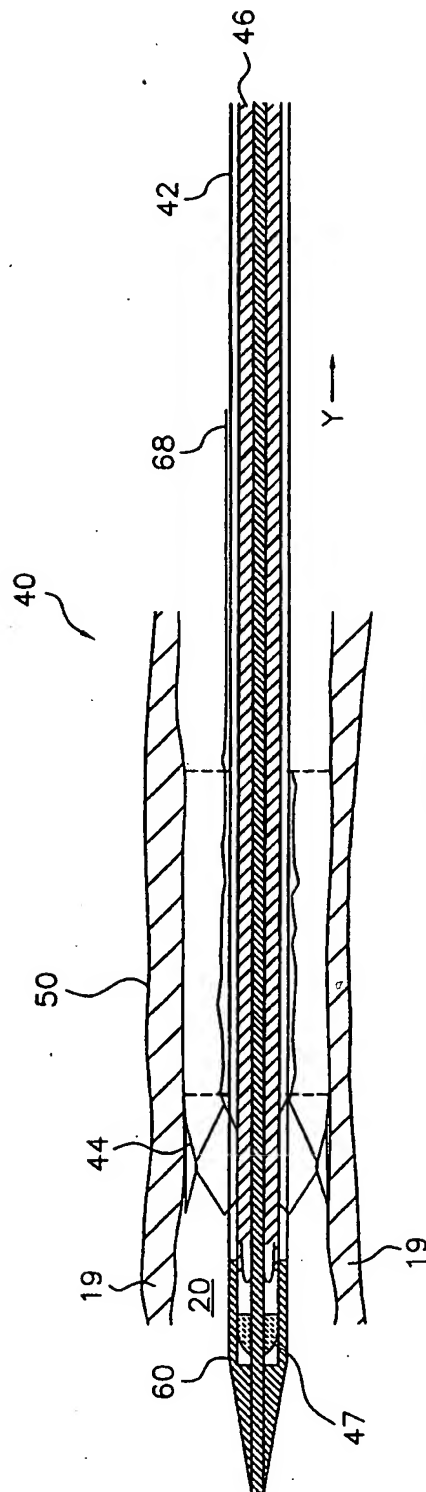


FIG. 7D

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